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UNION INITIATED OBSTACLES THAT LIMIT DISCRETIONARY POWER OF MID-LEVEL MANAGERS OF THE SOCIAL SECURITY ADMINISTRATION

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The purpose of this paper is to identify and examine union initiated obstacles that Social Security Administration (SSA) mid-level managers face in using discretionary power. Managers should be aware of the bounds in which they operate in order to adequately negotiate decisions, which ultimately seek to serve public needs and promote workplace democracy. In examining the limitations of discretionary power I emphasize the importance of contractual restrictions by focusing on the elements of collective bargaining and grievance resolution. The intent of contractual obligations is to promote participative leadership and equality. However when management is stripped of certain discretionary powers strong disincentives result, encouraging laissez-faire leadership. Awareness of hurdles that contractual restrictions and corresponding historic adjudicative actions will enable managers to alter their leadership style and approach, while resisting the temptation to resort to laissez-faire leadership.

Leadership

The definition of leadership is debatable among practitioners and scholars, and managers and the managed. Bass indicates that the search for one true meaning of leadership is fruitless (2008). Rather, the definition stems from the interpretation of the observer in the context of the situation (Bass, 2008). Regardless of one's perspective of leadership, few would argue that discretionary powers are an unnecessary element of leadership.

Managerial Discretion

Mid-level managers of the SSA who interact directly with front-line workers exercise discretion when they experience, think, judge, and then act (Arendt, 2003) (Weber, 1946). These managers must have discretionary limits to avoid possible abuses of the system, such as failing to adhere to the letter and intent of the law (Hibbeln and Shumavon, 1986), exercising arbitrariness, or allowing and/or promoting inequality (Davis, 1969). Conversely, managers must be allowed the flexibility to properly implement policies in an engrossed world of language confliction and political, supervisorial, peer, public, and employee pressure (Hibbeln and Shumavon, 1986). Certainly a reasonable balance must be sought between absolute discretionary power and rules that enforce discretionary limitations.

In his 1969 book, administrative law scholar Kenneth Davis indicated that discretionary power should be monitored and controlled through administrative and judicial measures (1969). It is the administrators themselves, involved with the details of vague legislative policies, who should make the rules governing administrative procedures (Davis, 1969). The act of distributing this power to front-line workers is certainly instrumental in that workers are given a sense of ownership (Bass, 2008).

Similar to managers, front-line workers need appropriate levels of discretion in order to effectively complete tasks and successfully develop leadership skills (Lipsky, 1980). The manager must empower employees with the necessary tools that will enable them to meet management goals, while preserving agency quality, service, and excellence (Bass, 2008). There is a balance that must be met between management and employee discretion. By allow-

ing greater employee discretion the manager must freely, or through coercion, relinquish discretionary power. This loss of power often results in a reduction in the manager's sense of achievement and recognition (Bass, 2008).

SSA Manager Discretion

As with most large public organizations, the SSA has policies which have evolved toward more narrowed definitions and implementations, reductions in discretionary powers of managers and workers, and subjugations of management and workers toward more defined bounds in which they must work (Social Security Administration, 2011). Front-line worker membership in the American Federation of Government Employees (AFGE), the primary unionized representative body of voluntary non-management SSA personnel, has historically been instrumental in securing decision making power, resolving passed losses of employee discretionary power. Unfortunately, in this swing of the pendulum, mid-level management has experienced further limitations to discretionary power to the extent that the overarching views of both management and employees are a mere semblance of previously existent leadership. And while the manager's further development of personal leadership skills has declined, the importance on a narrowed focus of technocratic skills and parallel leadership has increased significantly. As a result, managers possessing poor negotiation skills with their union representative counterparts often resort to laissez-faire leadership, becoming managers who "bury themselves in paperwork and stay away from employees" (Bass, 2008).

AFGE/SSA Contractual Overview

Union representatives that managers must negotiate with are represented by the AFGE. The AFGE is comprised of 600,000 federal and D.C. government workers, with only 15% of these workers located in the D.C. area, and 1,100 Locals represented primarily by employees of the Department of Defense, the Department of Veterans Affairs, and the Social Security Administration (2011). A contract between the AFGE and the SSA stipulates the bounds in which management conduct activities (SSA and AFGE, 2005). Similar to the German system of unionization, managers are not members of the union (Dewitt, 1980) (SSA and AFGE, 2005). This is due to the fear that possible erosion of worker bargaining authority might ensue (Dewitt, 1980). Among many contractual obligations that management must adhere to, collective bargaining and grievance settlement are mid-level manager's top priorities in the decision making process.

Collective bargaining has the advantage of promoting participative, rather than directive, leadership. In the 1920s the industrial union's collective bargaining agreement started to be used in conjunction with Frederick Taylor's scientific management principles (Fry, 1998). Applying Taylor's framework, ideally decisions which involve employee fairness and equality would be decided collectively between the representative union member and the SSA manager without compromising agency efficiency or effectiveness. In practice Taylor's principles take a back seat to union interests. Although Taylor's principles may seem a bit antiquated today, the basic premise of the search for maximum productivity still remains essential in the private and public sectors. Union interests, however, do not seek productive efficiencies. Rather, they seek increased member involvement and bargaining leverage. Since unions only seek contraction, agendas that attempt to scale back union power or member base meet fierce union opposition.

In terms of AFGE members, the AFGE does accomplish the primary mission, "to improve the professional and personal lives of ...members and to improve government services" (AFGE, 2006). This accomplishment is not without costs. The Federal Times reported in June of 2011 that a ban of official union activities during working hours was being sought by republicans due to an Office of Personnel Management report that indicated an estimated

\$129 million was spent for 3 million hours of union activities in 2009 (Losey, 2011). The unavailability of workers due to union activities limits resources available to mid-level managers at a time when budget reductions due to the looming recession are ever present. Managers cannot achieve optimal performance through their staff if they do not have the ability to exert control over others through available resources (Henderson and Martin, 2001).

Backing union officials' defense of SSA expenditures for union activities was Democratic Representative Stephen Lynch (Losey, 2011). He indicated that this time is spent toward "resolving workplace disputes, improving workplace safety and other working conditions, enforcing protections against discrimination, negotiating telework agreements, or creating fair promotion procedures" (Losey, 2011). The AFGE president, John Gage, furthered the agreement by suggesting that "eliminating official time would effectively spell the end of collective bargaining in the federal government" (Losey, 2011). This "all or nothing" approach is fairly common in negotiation procedures, yet is still an effective scare tactic. The result of a failure to change is a forced limitation on the ability for mid-level managers to use manpower towards their goals, thus suppressing the element of action in exercising discretion (Arendt, 2003) (Weber, 1946).

Contract Analysis

Developing mid-level manager's leadership growth requires giving them the necessary resources that allow discretionary power (Maxwell, 1993). By discouraging personal growth mid-level managers are demotivated from achieving valid successes (Maxwell, 1993). In examining discretion of mid-level managers the *Management Rights* section of the most recent binding contract between the SSA and AFGE must be observed (SSA and AFGE, 2005):

Section 1. Statutory Rights

- A. Subject to subsection (B) of this section, nothing in this Agreement shall affect the authority of any management official of any agency--
 - 1. to determine the mission, budget, organization, number of employees and internal security practices of the agency; and
 - 2. in accordance with applicable laws--
 - a. to hire, assign, direct, layoff and retain employees in the agency or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;
 - b. to assign work, to make determinations with respect to contracting out, and to determine the personnel by which agency operations shall be conducted;
 - c. with respect to filling positions, to make selections for appointments from-
 - (1) among properly ranked and certified candidates for promotion;
 - or
 - (2) any other appropriate source; and
 - d. to take whatever actions may be necessary to carry out the agency mission during emergencies.
- B. Nothing in this section shall preclude any agency and any labor organization from negotiating--
 - 1. at the election of the agency, on the numbers, types and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods and means of performing work;
 - 2. procedures which management officials of the agency will observe in exercising any authority under this section; or

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3. appropriate arrangements for employees adversely affected by the exercise of any authority under this section by such management officials.

SSA managers represent the most trusted senior workers who generally begin their career as front-line workers. Yet, they are not able to exercise their wisdom without the filter of the representatives of their subordinates. This often subjects them to be categorized as the glorified mentor and the gatekeeper of hierarchical information. Their supervisors are in turn limited to evaluating performance of procedural metrics, including union grievances. The manager is forced to shift from the public preference of a customer centric organization to a customer centric organization bound by competing union membership agendas. Collectively bounds are incrementally narrowed through adjudicative victories and favorable legislative policy. Through a more fragmented process union members ultimately affect policy through exploiting the contractual obligations of workplace grievance resolution.

The Union Grievance

The process of settling grievances with union assistance has advantages for both the worker and the manager. The worker gets an opportunity to voice his disposition in cases where the worker may feel intimidated or lack critical communication skills (Devonish and Nurse, 2007). Grievance settlement also provides the employee with a method to solve contract violations without fear of repercussions (Devonish and Nurse, 2007). Workers also are able to redirect management agendas and ensure that the workplace justice is equitable (Devonish and Nurse, 2007). Management benefits from resolving disputes before work is inhibited or ceased (Devonish and Nurse, 2007). This outcome allows for prevention of higher turnover and the associated recruitment, selection and training costs (Devonish and Nurse, 2007).

Over involvement of union oversight can lead to negative outcomes of grievance settlements and unnecessary suppression of management control. This limitation of discretionary power affords incompetent employees a barrier of protection under the umbrella of the violated few. An AFGE attorney won a \$100,000 award for punitive and compensatory damages for 14 year veteran Magnolia Littles in an arbitration case in June of 2010 (Erling, 2010). After receiving a 90 day suspension for approving a fraudulent payment, Magnolia claimed that other employees were involved who had not received suspension, and was therefore the victim of discrimination (Erling, 2010).

Another case that resulted in an unfavorable decision involved claims representative Uma Ashok who filed two separate actions involving claims of discrimination and harassment due to national origin and religion (Ashok v. Barnhart, 2003). Her first claim was filed on November 19, 1992 after she discovered the words "Bloody Indian" scribed on her jacket (Ashok v. Barnhart, 2003). Additional allegations resulted from Uma, eventually resulting in a final court decision by the United States District Court for The Eastern District of New York on October 30, 2003 (Ashok v. Barnhart, 2003).

The decisions and justifications of these cases are immaterial to the effect that they have on management discretion. It is often the process itself that has the most drastic outcome in changing management behavior. Both cases required increased expenditures by the federal government and decreased productive management time allocations. Strictly on the basis of preserving taxpayer dollars, one might conclude that the costs associated with legal proceedings outweigh the costs to reprimand or retain an incompetent employee.

These cases likely resulted in looming negative stigmas of the direct supervisors involved. A denial was the result of the second case, however, an 11 year period elapsed from the time allegations were first made and the decision was granted by a U.S. district judge. This is 11 years of possible promotions or appraisals leading to promotion in a competitive envi-

ronment in which minute differences are the basis for selection decisions. Obviously, any arbitration agreement accepted by a worker is a union victory at the expense of the manager's upward mobility.

Managerial Response

Judicial review will affect relationship dynamics between front-line workers and management. Since managers are often embedded in SSA organizational culture for 10 or more years before reaching the first rung of the management ladder the tacit knowledge gained by mid-level managers from witnessing the judicial decision making process is at a fairly mature stage, so they tend to be well aware of and able to avoid potential pitfalls. Rooting in this knowledge is the incentive for mid-level managers to lay low, prevent friction, and limit decisions to those that have union support. The manager may be incentivized to practice passive management by exception, where "the leader intervenes only if agreements are not kept or subordinates' standards fall below standards" (Bass, 2008, p.143). When the manager makes a conscience decision not to intervene in failed agreements and low standards laissez-faire leadership is taking place (Bass, 2008).

The cases presented and many others that have had similar results represent union victories, inevitably resulting in further increases of employee power and union support. Like any organization, resources are limited. Therefore, the swift victories are preferable, serving as advertising campaigns for the AFGE. A blatant attempt to secure membership is presented in the AFGE's public release of Magnolia Little's case in which attorney Patti McGowan boasts, "This is a first for an SSA local in arbitration, the unprecedented sums of damages awarded to our member should serve as a wake-up call. We won't let these blatant injustices to our members stand" (Erling, 2010). In addition to securing membership, these AFGE public releases serve to shape the minds of the workers destined for the management track.

Agencies tend to be responsive to adjudicatory and arbitration findings by reevaluating and reformulating administrative values and procedures (Ludd, 1986). Max Weber contends that legitimate legal-rational authority is upheld by administrative procedures (Fry, 1998). Subordination to authority is then directed from an "impersonal order", not the manager (Fry, 1998, p. 28). And "legal authority exists only when legal order is implemented and obeyed in the belief that it is legitimate" (Fry, 1998, p. 29). When legality of authority is diminished by collective AFGE actions legitimacy of mid-level management decisions is similarly reduced.

Collective Bargaining

Mid-level management practices are also bound by the restrictions of collective bargaining in the use of monetary incentives to motivate employees to act in the interest of taxpayers. In October of 1988 the SSA piloted a budget/gain sharing program that divided local budget savings, based the previous year's productivity, evenly into both the Social Security Trust Fund and monetary awards to be distributed at the discretion of mid-level management (U.S. DHHS, SSA v. FLRA, AFGE). The AFGE responded by filing a grievance indicating that the national collective bargaining agreement had been violated, indicating the SSA had failed to negotiate the implementation of the program (U.S. DHHS, SSA v. FLRA, AFGE). The decision reached by the U.S. Court of Appeals for the Fourth Circuit was an allowance for management to retain the discretion to determine the budget (U.S. DHHS, SSA v. FLRA, AFGE). However, the "procedures and appropriate arrangements" of budget allocations was ruled in favor of the AFGE (U.S. DHHS, SSA v. FLRA, AFGE, p. 1).

This case, among many, shapes management actions. According to Herbert Simon, given a person's limited capacities, the decision maker will respond to select stimuli, particularly shaped by routines, habits or routine or creative problem solving (Fry, 1998). Managers use select "environmental stimuli" (Fry, 1998, p. 193) to exercise discretion when they experi-

ence, think, judge, and then act (Arendt, 2003) (Weber, 1946). Discretion is therefore limited when action is restricted by dominate stimuli. Only experiences, thoughts, and judgments which support union interests will result in viable actions; therefore, to increase efficient patterns of thought, the mid-level manager must realize cognitive bounds. The result is management's "routinized and habitual responses", while the "creative search activity" is minimized (Fry, 1998). In order to realize creative decision making SSA mid-level managers must successfully negotiate agendas in the arena of workplace democracy.

Variables of the Magnitude of Participation

Union initiated managerial bounds do spur the environment for workplace democracy to flourish. The magnitude of participation in the decision making process of a democratic workplace can be measured by examining five variables: extensity, scope, mode, intensity and quality (Mason, 1982).

First, the extensity, the proportion and absolute number, of workers who participate in decisions in the organization has increased as management restrictions have decreased (Mason, 1982). Although many front-line workers are not members of the AFGE, membership is not required to participate in the fruits that the AFGE and SSA contract binds management actions to. However, if participation were minimal the threat of work stoppages would cease to be a threat to the SSA; therefore, contract compliance would naturally have minimal impact on management decisions.

Second, the scope, the number and type of issues, of decisions are decided collectively relative to the decentralized structure of the SSA (Mason, 1982). Technology has played an instrumental role in allowing for more decision making capabilities to be made in a shorter time. The frequency and number of issues in the SSA can be decided by means of email and instant messages in a relatively short time. With limited available time not devoted to direct front-line customer service, managers are able to maximize collective buy-in.

Neil Chamberlain, who was the associate professor of economics and assistant director of the Labor and Management Center at Yale University, indicates that the scope of collective bargaining is often framed to explain that the area in which management discretion is most constricted is from the continually increasing power of the union (1951). He argued that the resulting decision is a "joint product" between management and the union, rather than a narrowing of management discretionary authority (Chamberlain, 1951, p.152). Yet, Chamberlain's view stemmed from worker protection from "steel barons" and "coal kings" who subjected their workers to unsafe working conditions and low wages (1951, p. 156).

Third, the mode, the form of participation, often depends on the importance of the decision being made (Mason, 1982). Face to face discussions continue to be the most acceptable forum to make decisions that may result in significant change and require input from all members. Employees appreciate face to face decisions when news has a significant personal effect and the availability of immediate feedback is necessary. Conversely, the electronic messaging is a useful tool for routine matters requiring no urgency.

Fourth, intensity, "the psychological involvement of individuals in the act of participation", of the decision is instrumental as a deciding factor for the outcome (Mason, 1982, p.155). Front-line workers who do not believe that a decision will result that makes a difference will often fail to adhere to the procedure being decided. Psychological involvement is also dependent on the worker's perceived fairness of the outcome (Cohen-Charash and Spector, 2001).

Distributive and procedural justices heavily influence intensity in the workers interpretation of fairness (Cohen-Charash and Spector, 2001). Distributive justice is dependent on the workers perceived distribution of the quantity and quality of work (Cohen-Charash and Spector, 2001). When a worker perceives work distribution to be unfair the worker experiences "anger, pride, or guild" (Cohen-Charash and Spector, 2001, p. 280). Procedural justice is

a perception of the fairness of the process that results are derived (CSpector, 2001). Included in procedural justice is the way employees view the mid-level manager's process of communication (Cohen-Charash and Spector, 2001). Employees tend to perceived justified actions when mid-level managers incorporate politeness, honesty, and respect in their messages (Cohen-Charash and Spector, 2001).

Finally, quality, the impact in the workplace, of the decision also has a high impact on worker involvement (Mason, 1982). Participation in the decision and management buy-in contributes to the quality of the decision and is more likely to result in worker compliance. Decisions that often fail to be quality decisions are those that are hasty and formulated and delivered by one person.

Taking these factors into account allows for mid-level managers to evaluate the extent that workplace democracy is transpiring within their realm of control, and to attempt to suppress or promote further worker involvement in the democratic process. While there is not an adequate means to measure these factors, other organizations can be used as a basis for comparison. One could logically speculate that the intensity and longevity of union involvement in an organization positively correlates with workplace democracy and negatively correlates with mid-level management discretionary power.

Conclusion

Mid-level managers need to be aware of bounds of union contract agreements and past adjudicative actions in order to function successfully as a leader. The manager also must be aware of the bounds manifested in collective bargaining and the consequences of worker grievances in order to successfully negotiate preferred outcomes and avoid the pitfall of laissez-faire leadership. Finally, managers should be aware of the benefits of workplace democracy and the elements needed to ensure compliance.

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